



## **Imported Meat, Poultry and Egg Products Remain Under USDA Jurisdiction**

### **ISSUE**

The U.S. Department of Agriculture's (USDA) Food Safety and Inspection Service (FSIS) is reemphasizing the current requirements and procedures for companies importing meat, poultry and egg products into the United States. This document is meant to clarify the situation for meat, poultry and egg products given that the U.S. Health and Human Services (HHS) – Food and Drug Administration's (FDA) two interim final regulations of the Bioterrorism Act will take effect on December 12, 2003. The Bioterrorism Act regulations include (1) the registration of food facilities exporting to the United States and (2) the prior notice of imported food shipments.

The USDA-FSIS import requirements remain the same. It is crucial that importers, brokers, exporting countries and others understand that the new Bioterrorism Act does **not** supersede the import provisions of the Federal Meat Inspection Act, the Poultry Products Inspection Act, the Egg Products Inspection Act, or the regulations adopted under these Acts.

In the United States, USDA-FSIS regulates meat, poultry and egg products. The remaining foods are regulated by HHS-FDA. As a result, imported meat, poultry and egg products are not covered by the Bioterrorism Act and are not subject to the HHS-FDA's prior notice requirements (unless they are being imported for use in animal feed). Products that have in the past been presented to USDA-FSIS for port-of-entry reinspection will continue to be presented to USDA-FSIS in the future and no prior notice will be required.

### **FACTS**

In summary, the following conditions outline how countries exporting meat, poultry and egg products are affected by HHS-FDA's two new rules:

- Facilities producing, handling or transporting **only** meat, poultry or egg products for human consumption are regulated exclusively by the USDA-FSIS and therefore do **not** need to be registered with HHS-FDA under the Bioterrorism Act or give prior notice of shipment.
- If facilities handle HHS-FDA regulated food products as well as USDA-FSIS regulated products then they must comply with HHS-FDA's two new rules **only** for the HHS-FDA regulated products. The meat, poultry and egg products do **not** need prior registration or prior notice even if the company exports other food products.
- The only meat, poultry and egg products that do **not** fall under USDA-FSIS oversight are products that contain 3% or less raw meat; less than 2% cooked meat; or less than 2% cooked poultry meat. Facilities producing products in these categories should comply with HHS-FDA regulations.

## FSIS' REQUIREMENTS

FSIS does have a registration and record keeping requirement of its own that has been in effect since 1970. All meat brokers, poultry products brokers, official establishments and carriers and importers of poultry or livestock carcasses are required to keep business records and make them available to USDA-FSIS employees upon request.

On June 25, 2003, USDA-FSIS announced in the Federal Register that a new registration form had been developed, which contains certain information that was not required on the previous form. All parties that are required to register, including those that are currently registered, must complete the new form and submit it to USDA-FSIS by March 22, 2004.

## BACKGROUND

On October 10, 2003, HHS-FDA published two interim final regulations to implement its portion of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (the Bioterrorism Act). These become effective on December 12, 2003.

The first regulation requires that food facilities (other than facilities that produce meat, poultry, or egg products for human consumption) exporting to the United States register with HHS-FDA by December 12, 2003. The second regulation is the prior notice rule. Under this rule's provisions, if an HHS-FDA regulated food product is shipped to the United States then there must be a two-hour notice for shipments arriving by road; a four-hour notice for shipments arriving by air or by rail; and an eight-hour notice for shipments arriving by water.

On November 20, 2003, HHS-FDA issued guidance to industry on the implementation of this new prior notice requirement. This guidance focused on U.S. Bureau of Customs and Border Protection's (CBP) Harmonized Tariff Schedule (HTS) codes, which are used to identify imported products in their import data base. HHS-FDA has identified certain HTS codes as requiring prior notice under the Bioterrorism Act. Two tag codes have been assigned by HHS-FDA: FD4, which indicates to CBP that the imported food **will** require prior notice, and FD3, which indicates to CBP that the imported food **might** require prior notice.

### TAG CODES WHICH INDICATE WHETHER OR NOT IMPORTED FOOD WILL REQUIRE PRIOR NOTICE

FD3 – Might Require Prior Notice	FD4 – Requires Prior Notice
Imported foods with a tag code of FD3 would include products such as: meat, poultry, and egg products, food with 3% or less raw meat; less than 2% cooked meat; or less than 2% cooked poultry and tallow oil.	Imported foods with a tag code of FD4 would include products such as: dairy, cheeses, seafood, pasta, fruits, vegetables and shell eggs.

## FREQUENTLY ASKED QUESTIONS

**Q:** In HHS-FDA's November 20, 2003, guidance to industry on prior notices of imported foods, many Harmonized Tariff Schedule (HTS) codes were flagged with prior notice indicator FD3. Some of these FD3

products clearly appear to be meat or poultry for human consumption. Does that mean exporting countries and U.S. importers or brokers must provide prior notice of these meat or poultry imports to the HHS-FDA?

**A:** No. Imported meat and poultry products for human consumption continue to be regulated by USDA-FSIS, not HHS-FDA, and will continue to be presented to USDA-FSIS for reinspection. The FD3 coding simply means the product might or might not require prior notice to HHS-FDA. The classification was applied to some HTS codes in recognition of the fact that USDA-FSIS does not regulate certain products that contain only a small percentage of meat or poultry that traditionally have not been considered meat or poultry products, or products that are intended for use in animal feed. Products not regulated by USDA-FSIS inspection are subject to HHS-FDA inspection and thus are bound to all applicable requirements of the Bioterrorism Act, including prior notice requirements.

**Q:** Which products that contain meat or poultry ingredients are not regulated by USDA-FSIS and these would be regulated under HHS-FDA's inspection and prior notice requirements?

**A:** Any products that contain 3% or less raw meat; less than 2% cooked meat; or less than 2% cooked poultry meat for human consumption, unless they are regulated as a meat or poultry product.

**Q:** So does that mean if my product contains more meat or poultry than the threshold described above then it will not be regulated by HHS-FDA and will not be subject to prior notice requirements?

**A:** Yes. Products containing more than the relatively small amounts of meat or poultry described above are not covered by the Bioterrorism Act, are not subject to HHS-FDA's prior notice requirements and will continue to be presented to USDA-FSIS for port-of entry reinspection as has always been the case.

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**Consumer inquiries:** Call USDA's Meat and Poultry Hotline at 1-888-MPHotline

**FSIS Web site:** <http://www.fsis.usda.gov>